

Appl. No. : **10/675,060**
Filed : **September 30, 2003**

REMARKS

Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the above amendments and the following remarks.

Claims 1-7

Claims 1-4 stand rejected under 35 U.S.C. 102(b) as anticipated by Lenker et al. (USPN 5,683,451). Claims 5-7 stand rejected under 35 U.S.C. 103(a) as unpatentable over Lenker. Applicant respectfully disagrees with the rejection of these claims. Nevertheless, to advance prosecution, Applicant has chosen to amend these rejected claims as outlined below.

As amended, independent Claim 1 recites, in part, an endoluminal graft deployment that comprises “an intermediate tube”, “a central core, extending through the intermediate tube”, “a tubular sheath extending over a portion of the intermediate tube and having an open distal end and a proximal end, the open distal end of the tubular sheath having a first diameter and the proximal end of the tubular sheath having a second diameter that is smaller than the first diameter, the proximal end being coupled to the intermediate tube, the tubular sheath defining a proximal cavity between the tubular sheath and the intermediate tube for receiving a proximal end of a prosthesis; and a plug positioned in the proximal cavity between the tubular sheath and the intermediate tube, the plug defining a distal surface that faces the proximal end of the prosthesis.”

In contrast, Lenker discloses distal force imparting structure 67, which is bonded to the core shaft. Accordingly, Lenker does not disclose, teach or suggest a plug positioned between a tubular sheath and an intermediate tube through which a central core extends. For at least this reason, Applicant submits that Claims 1-7 are in condition for allowance.

Claims 8-12

Claims 8-12 stand rejected under 35 U.S.C. 103(a) as unpatentable over Lenker in view of Lukic et al. (USPN 5,709,703). Applicant respectfully traverses with the rejection of these claims.

To establish a prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested in the prior art. MPEP 2143.03 Claim 8 recites in part, an endoluminal graft deployment catheter that comprises an “intermediate tube having a first portion and a second

portion, the first portion having a larger diameter than the second portion to form a distally facing surface”, “a central core, extending through the proximal and distal outer tube sections and the intermediate tube”, “a tubular sheath having an open distal end and a proximal end, the open distal end of the tubular sheath having a first diameter and the proximal end of the tubular sheath having a second diameter that is smaller than the first diameter, the proximal end of the tubular sheath being coupled to the second portion of the intermediate tube, the tubular sheath defining a proximal cavity for receiving a proximal end of a prosthesis; and a spacer for filling at least partially a space between the distally facing surface of the intermediate tube and an outer surface of the tubular sheath.”

In contrast, the primary reference (Lenker) discloses a delivery catheter that comprises a tubular cover 32, a shaft 34 slideably received within the cover 32 and a core shaft 44 slideably disposed within the shaft 34. Runners 42 extends distally from the shaft 34. A distal force imparting structure 67 is bonded to the core shaft 44 and is positioned between the core shaft 44 and the shaft 34. See Figure 9. However, Lenker does not disclose an intermediate tube having a first portion and a second portion, the first portion having a larger diameter than the second portion to form a distally facing surface. Lenker also does not disclose a spacer for filling at least partially a space between the distally facing surface of the intermediate tube and an outer surface of a tubular sheath. Instead, the distal force imparting structure 67 is bonded to the core shaft 44, which has a constant diameter and does not form a distally facing surface.

The Examiner states that Lukic discloses “a proximal outer tube section and a distal tube outer section.” However, even assuming that the Examiner’s characterization is correct, this does not address the deficiency in Lenker noted above. Moreover, Lukic also does not disclose (i) an intermediate tube having a first portion and a second portion, the first portion having a larger diameter than the second portion to form a distally facing surface or (ii) a spacer for filling at least partially a space between the distally facing surface of the intermediate tube and an outer surface of a tubular sheath.

Accordingly, Applicant respectfully submit that Claim 8 is in condition for allowance. Claims 9-12 depend upon Claim 8 and, for at least this reason, these claims are also in condition for allowance.

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New Claims

Applicant has added new claims New claims 15-25

Claims 15-18 are in condition for allowance because the recite additional patentable subject matter and they depend upon allowable Claim 1.

Claim 19 is an independent claim and recites, in part, a deployment catheter comprising “a tubular sheath having an open distal end and a proximal end, the open distal end of the tubular sheath having a first diameter and the proximal end of the tubular sheath having a second diameter that is smaller than the first diameter, the proximal end being coupled to the intermediate tube, the tubular sheath defining a proximal cavity for receiving a proximal end of a prosthesis, the tubular sheath configured to maintain the proximal end of the prosthesis in a compressed configuration.” The cited art does not disclose, teach or suggest a delivery catheter with the above noted limitation. For example, Lenker discloses a delivery catheter that includes runners 42 that expand as the cover 32 is retracted. See Col. 7, lines 60-65. Lukic, in turn, discloses a catheter that includes coverage tube means 37 with longitudinal cuts 38 that form tongues 40, which “deploy like flower petals under the radial force exerted by expansion of the stent 7 out of the sheath 2.” Col. 8, lines 1-10.

Claims 20-25 depend upon Claim 19 and, for at least this reason, these claims are also in condition for allowance.

Matters of Form

Claims 5-6 and Claim 8 have been amended to correct the informalities noted by the Examiner. In addition, Applicant has amended the Specification to correct the informality noted with respect to reference number “34”. Applicant has also corrected various typographical errors in the Specification.

Drawings

This amendment addresses the objection to the Drawings. Specifically, Applicant is submitting herewith replacement figures for Figures 13, 13A and 14A. In these figures, reference number “134” has been changed to “135”. In addition, reference number “165” has been changed to “173”, “161” has been changed to “165”, “163” has been changed to “177” and “167” has been changed to “175”. The Specification has also been amended to reflect these changes.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
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Amendments to the Drawings

Applicant is submitting herewith replacement figures for Figures 13, 13A and 14. In Figures 13 and 14 reference number "134" has been changed to "135". In Figure 13A, reference number "165" has been changed to "173", "161" has been changed to "165", "163" has been changed to "177" and "167" has been changed to "175".